Common Sense Initiative

Mike DeWine, *Governor*
Jim Tressel, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Eva Dixon, Ohio Bureau of Workers' Compensation

FROM: Michael Bender, Business Advocate

DATE: November 12, 2025

RE: **CSI Review – Outpatient Medication Formulary and First Fill of Outpatient Medications (OAC 4123-6-21.3 and 4123-6-21.6)**

Pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Bureau as provided for in ORC 107.54.

Analysis

This rule package consists of two amended rules proposed by the Ohio Bureau of Workers' Compensation (BWC). This rule package was submitted to the CSI Office on September 25, 2025, and the public comment period was held open through October 9, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 25, 2025.

Ohio Administrative Code (OAC) Chapter 4123-6 implements the Health Partnership Program (HPP), which manages workers' compensation health care for injured workers employed by State Insurance Fund employers. OAC 4123-6-21.3 adopts an outpatient formulary which constitutes the complete list of medications that are approved for reimbursement by BWC for the treatment of a work-related injury or disease in an allowed claim when dispensed to an injured worker by a registered pharmacist from an HPP-enrolled outpatient pharmacy provider. An appendix to the rule

contains the formulary. The appendix is amended to add medications to the formulary, remove medications from the formulary, and make changes in coverage to medications/classes already on the formulary. OAC 4123-6-21.6 adopts a first fill formulary which constitutes the complete list of medications and the maximum quantity of such medications that are approved for reimbursement by BWC for first fill prior to the issuance of an initial determination order. An appendix to the rule contains the formulary. The appendix is amended to add medications to the formulary.

During early stakeholder outreach, BWC emailed notice to interested parties on September 3, 2025, requesting feedback on the proposed rules through September 17, 2025. Stakeholders who were contacted included BWC's managed care organizations, BWC's Health Care Quality Assurance Advisory Committee, BWC's Medical Services Division's medical provider stakeholder list, BWC's Self-Insured Division's employer distribution list, BWC's Employer Services Division's third-party administrator distribution list, the State Medical Board of Ohio, the Ohio Board of Pharmacy, the Ohio Association for Justice, the Council of Smaller Enterprises, the Ohio Manufacturers' Association, the National Federation of Independent Business, and the Ohio Chamber of Commerce. One individual requested the removal of the requirement for prior authorization for antibiotics and antifungals, citing what she considered the slow process of accelerated approval. BWC replied that its Pharmacy and Therapeutics Committee will review the suggestion at its next meeting in February 2026. No comments were received during the CSI public comment period.

The business community impacted by the rules includes HPP providers, namely prescribers and pharmacies. The adverse impacts created by the rules includes restrictions on which medications may be prescribed to injured workers and limits on the use of approved medications. There is also a cost with providing clinical documentation and evidence of medical necessity to BWC for short term reimbursement of new drugs or new dosage forms or strengths of existing drugs approved for use in the United States by the federal Food and Drug Administration on or after the effective date of the rules. Furthermore, prescribers must indicate that a first fill prescription is for a work-related injury to receive reimbursement for first fill medications. BWC states that the adverse impacts to business are justified to implement statutory requirements, incorporate changes in federal drug regulations, and improve overall efficiency and effectiveness of drug utilization.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that BWC should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.